



U.S. DEPARTMENT OF THE TREASURY

FREEDOM OF INFORMATION ACT

ANNUAL REPORT TO THE ATTORNEY GENERAL

FOR FISCAL YEAR 2008

Disclosure Services

January 5, 2009

DEPARTMENT OF THE TREASURY

The Departmental Offices (DO)

Alcohol and Tobacco Tax and Trade Bureau (TTB)

Office of the Comptroller of the Currency (OCC)

Bureau of Engraving and Printing (BEP)

Financial Management Service (FMS)

Internal Revenue Service (IRS)

United States Mint (MINT)

Bureau of the Public Debt (BPD)

Office of Thrift Supervision (OTS)

Treasury Inspector General for Tax Administration (TIGTA)

Financial Crimes Enforcement Network (FinCEN)



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FREEDOM OF INFORMATION ACT ANNUAL REPORT
FOR FISCAL YEAR 2008

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I. BASIC INFORMATION REGARDING REPORT.

This is the Fiscal Year 2008 FOIA Report for the Department of the Treasury. For purposes of administering the FOIA, the Department is divided into 10 bureaus. Each bureau is responsible for those records under its control, and each bureau will post its report on its own web site. Disclosure Services prepared the report in collaboration with the bureau FOIA Officers.

Questions about the report may be directed to:

Hugh Gilmore, Departmental Disclosure Officer

Disclosure Services

Ph: 202/622-0930; Fax: 202/622-3895

Address:

FOIA Request

Disclosure Services

Department of the Treasury

Washington, DC 20220

Treasury Department FOIA Home Page: www.treas.gov/foia/

Paper copies of this report may be obtained by contacting Disclosure Services

or by downloading from the Treasury FOIA website at:

<http://www.treas.gov/foia/reports/index.html>, “FY 2008 FOIA Report to the Attorney General.”

II. MAKING A FOIA REQUEST.

The Department of the Treasury's [Guide to Accessing Treasury Records](http://www.treas.gov/foia/) is available at www.treas.gov/foia/, or by contacting Disclosure Services, as described above.

1. Names, addresses, and numbers of Treasury bureau FOIA officers.

Departmental Offices (DO)

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Bureau of the Public Debt (BPD)

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Address:
FOIA Request
200 3rd Street, Rm. A4-A
Parkersburg, WV 26106

Internal Revenue Service (IRS)

Marie Twarog
 Phone: 770-234-4374
 Fax: 770-234-4346
 Address: (Headquarters only)
 Internal Revenue Service
 FOIA Requests
 Headquarters Disclosure Office
 Room 2012
 1111 Constitution Ave., NW,
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Office of Thrift Supervision (OTS)

Marilyn K. Burton
 Ph: 202/906-6467
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 Address:
 FOIA Requests
 1700 G Street, NW
 Washington, DC 20552

United States Mint (Mint)

Kathleen Saunders-Mitchell
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 Fax: 202/756-6100
 Address:
 FOIA Request
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 Washington, DC 20220

*Treasury Inspector General for
Tax Administration (TIGTA)*

Amy P. Jones
 Ph: 202/927-7044
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 Address: FOIA Request
 TIGTA Chief Counsel
 1125 15TH Street, NW, Suite 700
 Washington, DC 20005

*Financial Crimes Enforcement Network
(FinCEN)*

Amanda Michanczyk
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 Vienna, VA 22183

2. Brief description of why some requests are not granted and an overview of certain general categories of the Department's records to which the FOIA exemptions apply.

The most common reasons reported by the bureaus regarding why requests for records could not be granted were: (1) protecting personal privacy; (2) deliberative process privilege; (3) the records reflected the internal practices involved in investigations or inspections; (4) the records contained confidential taxpayer information and other statutorily protected information; and (5) the records contained contractor confidential and proprietary commercial information. Others: records did not exist; procedural requirements were not followed.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this Report:

| | |
|--------|---|
| BEP | Bureau of Engraving and Printing |
| BPD | Bureau of the Public Debt |
| DO | Departmental Offices |
| FinCEN | Financial Crimes Enforcement Network |
| FMS | Financial Management Service |
| IRS | Internal Revenue Service |
| MINT | United States Mint |
| OCC | Office of the Comptroller of the Currency |
| OTS | Office of Thrift Supervision |
| TIGTA | Treasury Inspector General (Tax Administration) |
| TTB | Alcohol and Tobacco Tax and Trade Bureau |

2. Basic Terms Used in This Report

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.

- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-track processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.

- ii. **Simple request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
- iii. **Complex request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily 20 working days from receipt of a "perfected" FOIA request).

3. Descriptions of the nine FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information
- b. **Exemption 2:** internal agency rules and practices
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an

impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual

- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

III. EXEMPTION 3 STATUTES

A. Exemption 3 Statutes Relied upon to Withhold Information

| Statute | Type of Information Withheld | Case Citation | Number of Times Relied upon per Component | Total Number of Times Relied upon by Agency |
|------------------------|------------------------------|--|--|---|
| 31 U.S.C. § 5319 | BSA records | Small v. IRS, 820 F. Supp. 163 (D.N.J. 1992) | TTB: OCC: BEP: FMS: IRS: MINT: BPD: OTS: TIGTA: FinCEN: 111 | 111 |
| 31 U.S.C. § 5218(g)(3) | BSA records | Whitney National Bank v. Karam, 306 F.Supp.2d 678 (S.D. Tex. 2004) | | |
| | | | | |
| | | | | |
| | | | | |

V. FOIA REQUESTS.

A. Received, Processed and Pending FOIA Requests.

| | Number of Requests Pending as of Start of Fiscal Year | Number of Requests Received in Fiscal Year | Number of Requests Processed in Fiscal Year | Number of Requests Pending as of End of Fiscal Year |
|---------------------------|--|---|--|--|
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 11 | 168 | 177 | 2 |
| | | | | |
| AGENCY OVERALL | | | | |

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

| | Number of Appeals Pending as of Start of Fiscal Year | Number of Appeals Received in Fiscal Year | Number of Appeals Processed in Fiscal Year | Number of Appeals Pending as of End of Fiscal Year |
|-----------------------|--|---|--|--|
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 8 | 3 | 11 | 0 |
| | | | | |
| AGENCY OVERALL | | | | |

B. Disposition of Administrative Appeals – All Processed Appeals

| | Number of Affirmed on Appeal | Number Partially Affirmed & Partially Reversed/Remanded on Appeal | Number Completely Reversed/Remanded on Appeal | Number of Appeals Closed for Other Reasons | TOTAL |
|-----------------------|------------------------------|---|---|--|-------|
| DO | | | | | |
| TTB | | | | | |
| OCC | | | | | |
| BEP | | | | | |
| FMS | | | | | |
| IRS | | | | | |
| MINT | | | | | |
| BPD | | | | | |
| OTS | | | | | |
| TIGTA | | | | | |
| FinCEN | 6 | 4 | | 1 | 11 |
| | | | | | |
| AGENCY OVERALL | | | | | |

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI. C (2) Chart

| Component | Description of “Other” Reasons for Denials from Chart C (2) & Number of Times those Reasons were Relied upon | TOTAL |
|------------------|---|--------------|
| DO | | |
| TTB | | |
| OCC | | |
| BEP | | |
| FMS | | |
| IRS | | |
| MINT | | |
| BPD | | |
| OTS | | |
| TIGTA | | |
| FinCEN | 0 | 0 |
| | | |
| | | |

C. (4) response Time for Administrative Appeals

| | Median Number of Days | Average Number of Days | Lowest Number of Days | Highest Number of Days |
|--------|------------------------------|-------------------------------|------------------------------|-------------------------------|
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 85 | 174 | 11 | 583 |
| | | | | |

Requests Granted Expedited Processing

[illegible]

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate | Number of Adjudicated within Ten Calendar Days |
|---------------------------|-------------------|---------------|---|---|--|
| DO | | | | | |
| TTB | | | | | |
| OCC | | | | | |
| BEP | | | | | |
| FMS | | | | | |
| IRS | | | | | |
| MINT | | | | | |
| BPD | | | | | |
| OTS | | | | | |
| TIGTA | | | | | |
| FinCEN | 0 | 0 | 0 | 0 | 0 |
| | | | | | |
| AGENCY OVERALL | | | | | |

B. Requests for Fee Waiver

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
|---------------------------|-------------------|---------------|---|---|
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 0 | 0 | 0 | 0 |
| | | | | |
| AGENCY OVERALL | | | | |

IX. FOIA PERSONNEL AND COSTS

| | PERSONNEL | | | COSTS | | | |
|---------------------------|---|---|---|--------------|---------------------|---------------------------------|----------------|
| | Number of “Full-Time FOIA Employees” | Number of “Equivalent Full-Time FOIA Employees” | Total Number of “Full-Time FOIA Staff” (The sum of Columns 1 & 2) | | Processing Costs | Litigation- Related Costs | Total Costs |
| DO | | | | | | | |
| TTB | | | | | | | |
| OCC | | | | | | | |
| BEP | | | | | | | |
| FMS | | | | | | | |
| IRS | | | | | | | |
| MINT | | | | | | | |
| BPD | | | | | | | |
| OTS | | | | | | | |
| TIGTA | | | | | | | |
| FinCEN | 1 | .55 | 1.55 | | \$166,625 | 0 | \$166,625 |
| | | | | | | | |
| AGENCY OVERALL | | | | | | | |

X. FEES COLLECTED FOR PROCESSING REQUESTS

| | Total Amount of Fees Collected | Percentage of Total Costs |
|---------------------------|---|--------------------------------------|
| DO | | |
| TTB | | |
| OCC | | |
| BEP | | |
| FMS | | |
| IRS | | |
| MINT | | |
| BPD | | |
| OTS | | |
| TIGTA | | |
| FinCEN | 0 | 0 |
| | | |
| AGENCY OVERALL | | |

XI. FOIA REGULATIONS

Agencies must provide an electronic link to their FOIA regulations, including their fee schedule.

http://www.fincen.gov/foia/foia_fees.html

http://www.fincen.gov/foia/foia_policies.html

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

1. Provide below the number of FOIA requests and administrative appeals that were pending beyond the statutory time period as of the end of the fiscal year. (Such requests and appeals are considered “backlogged.”)
2. Note: The statutory time period is ordinarily 20 working days from receipt of a perfected request, see 5 U.S.C. § 552(a)(6)(A)(i), but may be extended up to 10 additional working days when “unusual circumstances” are present, see id. § 552(a)(6)(B)(i),

| | Number of Backlogged Requests as of End of Fiscal Year | Number of Backlogged Appeals as of End of Fiscal Year |
|---------------------------|--|---|
| DO | | |
| TTB | | |
| OCC | | |
| BEP | | |
| FMS | | |
| IRS | | |
| MINT | | |
| BPD | | |
| OTS | | |
| TIGTA | | |
| FinCEN | 0 | 0 |
| | | |
| AGENCY OVERALL | | |

3. Discuss/explain the backlog here (optional).

D. Comparison of Numbers of requests from previous and current annual report – requests received, processed, and backlogged

| | NUMBER OF REQUESTS <u>RECEIVED</u> | | NUMBER OF REQUESTS <u>PROCESSED</u> | |
|-----------------------|---|---|---|--|
| | Number Received during Fiscal Year from Last Year's Annual Report | Number Received during Fiscal Year from current Annual Report | Number of Processed during Fiscal Year from Last Year's Annual report | Number Processed During Fiscal Year from Current Annual Report |
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 109 | 168 | 199 | 177 |
| | | | | |
| AGENCY OVERALL | | | | |

| | Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report |
|---------------------------|---|--|
| DO | | |
| TTB | | |
| OCC | | |
| BEP | | |
| FMS | | |
| IRS | | |
| MINT | | |
| BPD | | |
| OTS | | |
| TIGTA | | |
| FinCEN | 5 | 0 |
| | | |
| AGENCY OVERALL | | |

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged.

| | NUMBER OF APPEALS <u>RECEIVED</u> | | NUMBER OF APPEALS <u>PROCESSED</u> | |
|-----------------------|---|---|---|--|
| | Number Received during Fiscal Year from Last Year's Annual Report | Number Received during Fiscal Year from current Annual Report | Number of Processed during Fiscal Year from Last Year's Annual Report | Number Processed During Fiscal Year from Current Annual Report |
| DO | | | | |
| TTB | | | | |
| OCC | | | | |
| BEP | | | | |
| FMS | | | | |
| IRS | | | | |
| MINT | | | | |
| BPD | | | | |
| OTS | | | | |
| TIGTA | | | | |
| FinCEN | 8 | 3 | 2 | 11 |
| | | | | |
| AGENCY OVERALL | | | | |

| | Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report |
|-----------------------|--|---|
| DO | | |
| TTB | | |
| OCC | | |
| BEP | | |
| FMS | | |
| IRS | | |
| MINT | | |
| BPD | | |
| OTS | | |
| TIGTA | | |
| FinCEN | 8 | 0 |
| | | |
| AGENCY OVERALL | | |

F. Discussion of Other FOIA Activities (Optional)

1. Provide here any further information about the agency's efforts to improve FOIA administration.

<http://www.treas.gov/foia/reading-room/foia-improvement-plan.pdf>